

# COBRA



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# Learning Objectives

- COBRA overview
- Plans subject to COBRA
- Qualified beneficiaries & events
- Notification requirements
- Roles & responsibilities
- Forms & premiums payments
- COBRA & FlexElect
- Non-compliance penalties & fines

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# What is COBRA?

The Consolidated Omnibus Budget Reconciliation Act (COBRA) is a federal law that requires certain group plans to provide individuals and their families, those who lose their coverage, the right to continue their group coverage, under certain circumstances for a specified period of time

*Individuals may elect and pay for the continued coverage*

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# Plans Subject To COBRA

Group health plans maintained by state or local governments and private sector employers with 20 or more employees

**Health  
Plans**

**Dental  
Plans**

**Vision  
Plans**

**FlexElect –  
Medical  
Reimburse  
ment Only**

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# Bargaining Unit 6

- For employees in Bargaining Unit 6 - Send all COBRA enrollment forms to the CCPOA Benefit Trust

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# Who is eligible for COBRA?

## Qualified Beneficiaries

- Individuals covered under a group health, dental, or vision plan who experience a qualifying event
  - Coverage must be on the day before a qualifying event occurred that caused him/her to lose coverage
  - An individual is eligible to continue his/her group coverage because of a qualifying event.

# Eligible Individuals

## Employee

- Active
- Former
- Retired

## Employee's Spouse

- Active
- Former

## Domestic Partner

- Eligible based on California legislation
- Not eligible under Federal COBRA law

## Dependent Children

- Newborn
- Child placed for adoption

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# Qualified Medical Child Support Order or National Medical Support Notice

- A judgment, decree, order that requires that a child receive benefits under group coverage
- A child enrolled in group coverage under a QMCSO or NMSN is a qualified beneficiary under COBRA law, regardless of his/her status as a dependent of the covered employee

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# Ineligible Individuals

- Non-resident alien (with no U.S. income)
- Individual (not qualified beneficiaries) under the plan because of another qualified beneficiary's election

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# COBRA Notification Requirements

- Initial General COBRA Notice
- General COBRA Election Notice
- General COBRA Election Form
- General COBRA Ineligibility Form

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# Initial General COBRA Notice

- 1<sup>st</sup> of 3 required notices
- Provides a summary of their rights, options, and notification responsibilities under COBRA
- Addresses - Covered Employee, Spouse, Domestic Partner, and Dependent children
- Provided within 90 days from when coverage starts

***See BAM Section 400 – Attachment A***

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# Approved COBRA Delivery Methods

COBRA statute disclosure regulations require notices must be furnished using  
“measures reasonably calculated to ensure actual receipt of the material”

# Approved COBRA Delivery Methods, 2

## **First Class Mail**

- Proof of receipt not required
- Considered good faith compliance

## **Second & Third Class Mail**

- Acceptable
- Does not provide same guarantees of forwarding and return of mail

## **Hand Delivery**

- Have employee sign document acknowledging receipt of notice

## **Electronic Delivery (Email)**

- May be used to ensure receipt of “initial” notice
- Not all members of household share same email address

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# Single Notice Rule

- A single notice sent **first** class mail to the last known address, is considered good faith compliance - must be addressed to the employee, spouse or domestic partner
- Notification to the covered spouse or domestic partner is generally deemed notification to the covered dependent children who reside at the same address (including any dependent children covered in the future)

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# Single Notice Rule, 2

- To provide reasonable notice regarding who is included on benefit enrollment, note the enrolled dependents by name on the initial general notice
  - A separate notice is required when the Personnel Office is aware that covered individuals reside at a different address

***Keep a copy of all mailed notices in the employee's file!***

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# Initial General COBRA Notice Log

A sample of the Initial General COBRA Notice Log is found in the COBRA BAM Section 400, Attachment E. The log includes:

- Date of Notice (dd/mm/yy)
- Employee Name
- Home Address
- Provided by Hand/Mail
- Provided by (Name of Personnel Office Staff Person)

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# COBRA Qualifying Events

- Length of Eligibility:
  - COBRA allows employees and dependents to maintain dental benefits after losing coverage because of qualifying events for either:
    - 18 months, or
    - 36 months

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# Qualifying Events

## 18 Months

- Voluntary termination
- Involuntary termination (excluding gross conduct)
- Reduction of work hours (which causes loss of coverage)

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# Qualifying Events, 2

## 36 Months

- Divorce
- Legal separation
- Child no longer dependent
- Death of employee
- Employee becomes entitled to Medicare
- Termination of Domestic Partnership (State of California, not Federal)
- 120 day death benefit

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# Leaves of Absence

- Unpaid Leave of Absence
- Family and Medical Leave Act (FMLA)
- Uniform Services Employment and Reemployment Rights Act (USERRA)

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# Retirement

When the terms and conditions of a retiree benefit plan are different than the terms and conditions in place for active employees, the retiree plan is considered alternate coverage and COBRA is offered.

- Delta Dental PPO plus Premier
- Vision Benefit
- Retiree Vision

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# COBRA Election Notice/Election Form

- 2<sup>nd</sup> of 3 required COBRA notices
- Personnel Office is required to send election notice and election form notice to a covered employee, spouse, domestic partner, and covered dependent children, of their right to elect COBRA continuation coverage

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# COBRA Election Notice/Election Form, 2

- Must be sent 14 days from the date of the qualifying event or loss of coverage
- Election Form must be signed/returned to the Personnel Office by the date reflected in the Election Notice/Election Form to confirm that COBRA continuation coverage has been elected

***See Attachment B – Sample COBRA Election Notice and Attachment C – sample COBRA Continuation Election Form in Section 400 of the BAM***

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# COBRA Qualifying Event (CQE) Notification Responsibilities

- **Personnel Office**

- Advise qualified beneficiaries of COBRA rights
- Send required notices within 14 days of qualified event/loss of coverage
- Monitor timelines
- Take action upon awareness of qualified events

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# COBRA Qualifying Event (CQE) Notification Responsibilities, 2

- **Covered Employee, Spouse, Domestic Partner**
  - Notify Personnel Office of qualifying events
  - Must report within 60 days from date of qualifying event

*Personnel Office must take action for qualifying events they are aware of, but not reported by the employee (e.g., child turns 26)*

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# Notice of Unavailability of Continuation Coverage

- 3rd of 3 required notices – Applies when an individual is not entitled to elect continuation coverage, (e.g., 60-day notification period missed)
- Personnel Office must send notice within 14 days to explain why they are not entitled to COBRA

***See Attachment D – Sample Notice of Unavailability of Continuation Coverage in Section 400 of the BAM***

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# Gross Misconduct

If the employee's termination is due to gross misconduct (e.g. - violated a federal, state or local law; charged in criminal court), the department should not offer COBRA coverage.

- The threshold to prove is high and the IRS does not provide a definition for employers to use
- Consult with legal counsel before exercising this option!

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# COBRA Premium Payments

- **Premium Payment**

- Cost for coverage will be 100% of the total premium, plus a 2% administration fee
- Paid monthly by the enrollee to the plan or its designee

- **Retroactive Premium Payment**

- Enrollee has 30 calendar days from the date of election to pay all retroactive premiums to the plan or its designee
- Covers the period from the date of loss of coverage to the date of election.
- Claims occurring during the months of retroactivity will be held pending payment

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# Health Insurance Premium Payment (HIPP) Program

The California Department of Health Care Services will pay health insurance premiums for certain persons who are losing employment and have a medical condition that requires a physician's treatment.

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# Health Insurance Premium Payment (HIPP) Program, 2

The HIPP Program may cover COBRA premiums in certain circumstances for the following:

- Individuals Eligible for Medi-Cal
- Individuals Disabled by HIV/AIDS

***Submit questions to the Department of Health Care Services at [HIPP@dhcs.ca.gov](mailto:HIPP@dhcs.ca.gov) or by fax at 916-440-5676***

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# Non-Compliance Penalties & Fines

- Departments are responsible for ensuring covered employees and dependents are provided COBRA information, required notices, and assistance in completing enrollment forms
- Best practices to limit potential COBRA violations:
  - Train staff on COBRA requirements
  - Maintain internal COBRA standard operating procedures
  - Maintain current copies of COBRA notices
  - Implement an audit program

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# Statute of Limitations

- There is no expressed statute of limitation on COBRA violations
- A six (6) year period to maintain COBRA documentation is recommended

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# COBRA – Plan Contact Information

- BAM Section 421 provides the plan addresses and phone numbers
- Send enrollment forms and premium payments to the addresses listed
- COBRA Questions - Contact the CalHR Main Benefits line at (916) 322-0300 and ask to be transferred to the COBRA Manager/Analyst

# Quick Reference - Required Notices

**1<sup>st</sup>**

- Initial General COBRA Notice
- 90 days from when coverage begins

**2<sup>nd</sup>**

- COBRA Election Notice & Form
- 14 days from date of qualifying event/loss of coverage

**3<sup>rd</sup>**

- Notice of Unavailability of Continuation Coverage
- 14 days from qualifying event/loss of coverage

# Quick Reference – Qualified Beneficiary Responsibilities

<b>60 Days</b>	<ul style="list-style-type: none"><li>• From date of qualifying event to notify Personnel Office</li></ul>
<b>60 Days</b>	<ul style="list-style-type: none"><li>• From date of loss of coverage or receipt of COBRA Election Notice to elect COBRA</li></ul>
<b>30 Days</b>	<ul style="list-style-type: none"><li>• From date of election to pay all retroactive premiums</li></ul>

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# Resources

- Human Resources Manual
- Benefits Administration Manual
- Website(s)
- Forms

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# Questions

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